

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

James Lynch

Petitioner,

06cv027

v.

**Decision
&
Order**

Susan Connell, Superintendent,

Respondent.

The respondent seeks permission to file the response to the instant petition for habeas corpus relief under seal inasmuch as the underlying case involves a sex offense and the respondent does not wish to disclose the name of the victim. In support of this request, the respondent cites to §50-b of the New York State Civil Right Law which provides that “[n]o report, paper, picture, photograph, court file or other document, in the custody of any public officer or employee, which identifies such a victim shall be made available for public inspection.” Although such state statutory provisions are not binding on the Federal Courts, the Court may give consideration to the legislative intention underlying the statute.

By letter received May 4, 2006, the petitioner objects to the filing of the response under seal. Although the petitioner claims that the filing of the material under seal will delay this matter and hinder his “defense”, he has not articulated in what way the sealed filing could

possibly delay the prosecution of this matter or effect his ability to prosecute his claim for habeas corpus relief. The Court notes that the papers presented to the Court reflect that the motion to file under seal and all other materials sought to be sealed have also been served upon the petitioner. Thus, the filing of these materials under seal will not prejudice the petitioner's claims.

The motion to file under seal is granted.

So Ordered.

/s/ Hugh B. Scott

United States Magistrate Judge
Western District of New York

Buffalo, New York
May 8, 2006